

United States Court OF Appeals

JAN - 3 2006

For The Third Circuit

U.S.C.A. 3rd CIR.

Ronald G. Johnson
v. Appellant

State OF Delaware

Raphael Williams, Warden

) Third Circuit, U.S. Court OF Appeals

) Civil Action No. _____

) Delaware U.S. District Court

) Civil Action No. 1:05-CV-00258-K.A.J.

) Consolidate with

Civil Action No. 1:05-CV-00726 K.A.J.Delaware Supreme Court Civil Action No. 296, 2005Superior Court OF The State OF Delaware, In AndFor New Castle County Civil Action No05M-06-067 And Criminal I.D. No. 0504012348Notice OF Appeal

Comes Now the Appellant Ronald G. Johnson #182421 P.O. Box 9561 Wilmington, Delaware 19809 held at (H.R.Y.C.I.) Howard R. Young Correctional Institution 1301 E12th Street Wilmington, Delaware 19809 And File his Notice OF Appeal to this Honorable Court. Along with his Notice OF Appeal the Appellant send a Copy OF his Application For Certification or Certificate OF Appeal. File in the District Court, The District Court, Delaware Supreme Court And Superior Court have all Fail to "Order" the Appellant Discovery information request by Motion and Numerous Writ OF Mandamus to get it. The State has not Provided reasonable Discovery or information to hold the Appellant in Prison or Jail. Appellant want a answer to Interrogatory questions, Rule 16 Discovery Brady Material and Jencks Act Material. Petitioner and Appellant want to know Bill OF Partikular information as a) who arrest him, b) who booked him c) who took his Finger Prints d) who took his Picture, e) Discovery a Copy of a Valid warrant with a signed affidavit OF a officer signed and aproved by a magistrate or Judge. f) Victim and Witness Statement. Or, IF State Court Provide it Writ OF Habeas Corpus. Declare all is true under perjury Ronald Johnson December 27, 2005

In The United States District Court
For The District Of Delaware

Ronald G. Johnson)

v.)

State Of Delaware)

Civil Action No. 05-258 K.A.J.
Related Case (Neville v. Cavanagh) The District Court
(611 F.2d 673 (1979)) Ruling is in Con-
flict with 7th
Circuit in (Neville)

Application For Certificate Of Appealability

Comes Now the petitioner and File for
Application For Certificate Of Appealability. In Support
thereof petitioner presents the following.

1.) The petitioner is not seeking this Honorable Judge
Kent A. Jordan opinion about how or if he was arrested
because Petitioner already knows he was not arrested. If
I was indeed arrested you should tell me by who, Who
book me? Which police station was I taken to, Who
took my finger prints? You don't know. Therefore
You do not know I was arrest April 16, 2005

2.) The Petitioner Came to this Honorable Court for
2 reason to get Discovery Jencks Act and brady Material
or to grant me Writ Of Habeas Corpus, Writ Of Prohi-
bition And Writ Of Mandamus to Order Interrogatory Information.
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The petitioner has filed Motions To Superior Court Seeking Discovery Information the state has failed to provide the petitioner with this Discovery. The Petitioner Filed 10 or so Petitions to Supreme Court of Delaware to Get Superior Court to provide this information, or to Order the State of Delaware to Provide this information, To sum up all my claims in one the Petitioner seeks the following information.

Discovery, Jencks Act And Brady Material Demanded

The defendant and Petitioner has come to this Honorable Court by Writ of Habeas Corpus and Writ of Mandamus and Writ of Prohibition, To get this Honorable Court to Order a answer to these interrogatory question list below, or to grant my Habeas Corpus Writ if the State Can not answer the below questions, The Petitioner Come to this Court to Order the State Or lower Court to Order the State to provide him the Discovery request.

" Interrogatory Question / Information Requested "

- a) Who arrest me the petitioner? b) Who booked me?
- c) Who took my Finger prints? d) Who took my picture?
- e) Who brought me to Gander Hill Prison?

Additional Information Requested

f.) Petitioner made repeat demands and request for a Copy of a Valid Warrent signed by a officer, signed and approved by a magistrate and or judge. I want to know what Court this magiStrate or Judge worked for

g.) Petitioner made repeat demands and request to the State and Judges of Superior Court to Order Victim Statements and Witness Statements

h.) Petitioner made repeat Motions and Writs to Superror Court, Supreme Court of Delaware and to prosecutor to provide me the information and Demand of them to get the Warden to provide a Copy of his Detention Order to hold him April 15, 2005 threw April 21, 2005. If the State or IF the Warden did not provide Discovery of the Detention Order or do not have one it to would prove I was not arrest.

" 6th Amendment Constitutional Violation " And 14th "

The Six Amendment in relevant part states "[I]n all Criminal prosecutions, the accused shall enjoy the rights... to be informed of the nature and Cause of the accusation" see, *Oliver*, 333 U.S. 257 (1948)

Re: Antiterrorism And Effective Death Penalty Act Of 1996
Has Two Purposes

a) The first ground under this act is to see whether the District Court has jurisdiction to grant the Writ Of Habeas Corpus is whether the Petitioner has exhausted all remedies

See Brandon 410 U.S. 484, 93 S.Ct. 1123, 35 L.Ed2d 443

b) "Exhaustion requirement is base on principle of Comity, requiring the petitioner to give "state courts one full opportunity to resolve any Constitutional issues by invoking one complete round of State's established appellate review process" See Sullivan v. Beerckel 526 U.S. 838, 844 45, 119 S.Ct. 1728, 144 L.Ed 2d 443. Petitioner must demonstrate that the habeas Petition claims was "fairly presented on defect Appeal or in a post Conviction proceeding."

"In which a State Court Can Consider it on the merits"

See: Castille v. People 489 U.S. 346, 351, 109 S.Ct. 1056, 103 L.Ed 2d. 380 (1989)

c) Second a Federal Court must determine whether the Petitioner is attempting to enforce a State's Constitutional obligation to bring him to trial, or whether he is trying to abort a State proceeding

See Braden et 410 U.S. at 489, 93 S.Ct. 1123

" Petitioner Seeks To Enforce The States Constitutional Obligation "

The petitioner seeks to enforce the state's Constitutional obligation to inform him of who is claimed to have arrested him and the rest of the information request by interrogatory questions. The Superior Court and Supreme Court of Delaware has failed to provide me a forum to get this information. Writ of Mandamus, Writ of Prohibition and Writ of Habeas Corpus. These Writs was filed to get the State to provide the information request or to grant my Habeas Corpus Writ, Or Order my release or Prohibit Prosecution. In all my Claims I Stated I was not arrested by a officer. The Superior Court was with-out Probable Cause to bound him over to a grand jury or Superior Court.

Error OF Superior Court, Supreme Court And District Court

All Court has failed to Order the State to respond to the Claim of my Petition, Nor did any Court provide a Forum or Hearing to argue the issues with the State.

Actual Innocense

The petitioner is innocent, The State has failed to provide any Discovery. No valid warrent has been provide Signed

by a officer, Magistrate and or judge. No officer Filed a warrent, No magistrate or judge approved a warrent. The State has not presented a victim or Witness Statement, I have not seen a Detention Order of the Warden allowing him to hold me in Custody on April 18, 2005 threw April 21, 2005. If he had or has one it would be dated April 15, 2005. I have nothing no Discovery. Therefore I have a right to Confront my accusers and Castodian in a Court of law to test the Validity, legallity and Constitutionality of his arrest, detention, Custody and Indictment which this Court and no other Court has provided.

" District Court Rule Against 7th Circuit Justice "
Petitioner Relies ON 7th Circuit Ruling Neville v.
Cavanagh 611 F.2d 673 (1979)

" IF Standing trial in State Court to determine innocence or guilt is an indispensible element of exhaustion of State remedies, almost by definition the Prospect of Pre-trial habeas has been entirely foreclosed. I do not read the Controlling case requiring such a extreme result.

See Neville v. Cavanagh 611 F.2d 673 (1979) at 677

Quoting Branden v. 30th Judicial Circuit Court of Kentucky 410 U.S. 484, 93 S.Ct. 1123, 35 L.Ed2d 443 (1972)

Jurisdiction of 28 USC 2241 (C)(3)

Federal Court has Jurisdiction under 28 USC 2241 (C)(3) to grant Writ of Habeas Corpus prior to trial to individuals in State Custody See *Braden* 410 U.S. 484, 93 S.Ct. 1123, 35 L.Ed.2d 443.

7th Circuit Conclusion of *Neville v. Cavanagh* 611 F.2d 673

"To require petitioner to endure the rigors of trial now merely in the hope that a verdict of innocence will relieve the Federal Court of their duty to consider whether Illinois has jurisdiction to conduct trial."

"I see no reason from the point of view of the State or the (defendant) Petitioner of requiring any trial until the full mature Federal Claims, which go to the heart of State jurisdiction, are resolved."

See: *Neville v. Cavanagh* 611 F.2d 673 at 679.

Whether Petitioner Is Trying To Abort State Proceeding

The Petitioner is not trying to abort a State Prosecution or State proceeding. The Petitioner is trying to enforce the State's Constitutional obligation to provide Discovery. The 6th Amendment of Federal Civil Constitution require the State produce Discovery, Bill of Particular Information.

"The Six Amendment in relevant part State's "In all Criminal prosecution, the accused shall enjoy the right... to be informed of the nature and Cause of the accusations see, *Oliver*, 333 U.S. 257 (1948). (9)

Conclusion

Petitioner Came to Superior Court, Supreme Court and District Court of Delaware Moving all Court by Writ of Habeas Corpus, Writ of Mandam and Writ of Prohibition to Order the State to produce discovery information before trial which is required by Law, Rule of Criminal Procedure Jencks Act, Brady Material an Case law "before trial" This Motions had two issues presented the first was for the State to produce reasonable or ~~probable~~ Probable Cause ground to hold Petitioner.

First: Petitioner seeks to enforce the State's Constitutional obligation to inform him of who is claim to have arrested him?, who booked him?, who took his finger prints and Picture et al, Discovery witness and Victim statements et al.
"These Are Pretrial Issues Not issues For Post Conviction"

Second: Petitioner seek Writ of Habeas Corpus for the State failure to provide it's Constitutional obligation under the 6th Amendment to Provide Discovery and Bill of Particular information. IF they Failed Petition is entitle to relief sought. "All Remedies Exhausted" - [See Neville v. Cavanagh 611 F.2d 673]

Petitioner have exhaust all remedies in State Court The State Highest Court has ruled on the merit. Petitioner Can not expect any different results. Therefore the Case was ripe for full adjudication by District Court on the merits. the issue now clear petition wants Discovery Information and answer to Interrogatory Questions" or "Writ of Habeas Corpus" Writ of Prohibition" Therefore Petitioner wants Appeal Rights or Reconsideration."

Relief Prayed

Therefore Petitioner seeks Appeal Rights or Reconsideration by this Honorable Court. If this Honorable Court Grants Reconsideration Petitioner seeks this Court to Order the State to answer the Interrogatory questions and to provide the Discovery Information requested. IF the State of Delaware fails to provide a) a arresting officer b) A victim and witness statement c) a valid warrant signed by a officer with a magistrate's or Judge's signature approving it and a Sworn affidavit of a officer, Then Petitioner seek either Writ OF Habeas Corpus or Writ OF Prohibition Prohibiting prosecution till the State provide reasonable grounds to proceed with case. IF no warrant was filed by a officer, Then no detention Order was sent to the Warden. Then there was not Probable Cause to send my Case to a grand jury. IF there is no victim or Witness Statement, It would bring question of how the State obtained a ^{Both} ~~warrant~~, I mean Indictment.

Reasonable Jurists Would Find The District Court's assessment of Constitutional Claims Debatable Or Wrong

- a) All reasonable jurist would think the District Court made a Error when he rule in Conflict with 7th Circuit in Neville v. Catternagh 611 F.2d 673.
- b) Reasonable Jurist would believe the Petition has a right to the information request by interrogatory question et al, or the Defendant should be released if the State could not provide it.
- c) Reasonable Jurist would believe the State Deprive me the Petitioner of my Constitutional Right to Pre-trial Discovery and My Speedy Trial rights is violated by not Providing Discovery in over 9 months et al.

Certificate OF Service, Oath And Affidavit

Petition Declares all is true under Perjury and a Copy was sent to Thomas E Brown Deputy Attorney General 820 N. French street Wilmington Del. 19802

(10)

signed, Daniel Salinas December 22, 2005